IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

TUESDAY, THE 4TH SEPTEMBER 2007 / 13TH BHADRA 1929

MFA.No. 287 of 2001(B)

OPMV.887/1997 OF MOTOR ACCIDENT CLAIMS TRIBUNAL, THRISSUR DTD. 05/10/2000.
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APPELLANT/PETITIONER:

ROBERT ANTONY, S/O. ANTONY,
KUNNAN HOUSE, PELAKKATTU PAYYOOR,
P.O. KOONAMOOCHI, THRISSUR DIST.

BY ADV. SRI.LELLULAL T.G,
SRI.S.SHYAM.

RESPONDENTS/RESPONDENTS:
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1. **V. BABY, S/O. K. VEKITAPPA, DOOR.NO.20/57,**
   AKULA VEEDHI, KADDAPPA P.O, ANDHRA PRADESH.

2. **A. RAVI, S/O. A. ANJANEYALU, 15/553,**
   MODERN PALLI STREET, P.O. PRODDUTUR,
   KADAPPA, ANDHRA PRADESH.

3. **M/S. UNITED INDIA INSURANCE CO. LTD.,**
   REP. BY BRANCH MANAGER, KADAPPA,
   ANDHRA PRADESH.

BY ADV. SMT.P.A.REZIYA,SC INSURANCE.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 04/09/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

prv.

J.B.KOSHY & K.HEMA,JJ.

M.F.A.No.287 OF 2001

Dated 4th September, 2007

JUDGMENT

Koshy,J.

Appellant/claimant who was a Peon employed in a scheduled bank sustained serious injuries in a motor accident. He filed an application for compensation of Rs.11,18,680/= contending that the accident occurred due to the negligence of the driver of the vehicle insured by the third respondent insurance company. The Tribunal found that the accident occurred due to the negligence of the driver of the vehicle insured by the third respondent insurance company. However, only Rs.4,56,860/= was awarded as compensation. Quantum of compensation alone is disputed in this appeal. Therefore, we are confining our judgment to that aspect only. It is not disputed that the appellant was employed as a Peon in a scheduled bank. It has further come out in evidence that even though his both legs were amputated due to the accident, on sympathetic ground he was allowed to continue in service. Ext.A1 pay slip which was issued after three years of the accident shows that even after three years he was continuing in his employment and his salary also increased. Because of his continued employment, he will continue to get retiral benefits also without any reduction. It is submitted that the Tribunal calculated compensation on a multiplier method taking 56% disability even though Ext.A23 certificate issued by the

Medical Board stated that he has 70% disability. We are of the opinion that since he was continuing in employment, compensation for disability and loss of earning power need not have been granted on a multiplier method. Compensation is granted to off set the damages caused due to the accident. Since he was continuing in employment, after effects of the accident is reduced, but, at the same time, he has to be amply compensated as both legs were amputated. He has to continue his work with difficulties. Prospects of getting some work after retirement is lost. He has to continue his life with the disability. The Tribunal has awarded Rs.35,000/= for pain and suffering and Rs.30,000/= for loss of amenities and the total amount awarded was Rs.4,56,860/= with 12% interest from 11.6.1997, the date of application, till realization. The award was passed only in 2000. Considering the fact that his salary was not lost and also considering the rate of interest granted and total amount awarded, we are of the opinion that just and reasonable compensation was awarded and no interference is required in the same.

The appeal is dismissed.

J.B.KOSHY
JUDGE

K.HEMA
JUDGE

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